

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

LP MATTHEWS, L.L.C.,)	REDACTED PUBLIC VERSION
)	
Plaintiff,)	
)	
v.)	C.A. No. 04-1507-SLR
)	
BATH & BODY WORKS, INC.; LIMITED)	
BRANDS, INC.; KAO BRANDS CO.)	
(f/k/a THE ANDREW JERGENS)	
COMPANY); and KAO CORPORATION,)	
)	
Defendants.)	

**LP MATTHEWS' SUPPLEMENTAL SUBMISSION
IN OPPOSITION TO THE LIMITED DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT FOR LACK OF STANDING**

Of Counsel:

Ronald J. Schutz
Robins, Kaplan, Miller & Ciresi L.L.P.
2800 LaSalle Plaza
800 LaSalle Avenue
Minneapolis, MN 55402-2015
Office: 800-553-9910

Robert A. Auchter
David P. Swenson
T. Monique Jones
Robins, Kaplan, Miller & Ciresi L.L.P.
1801 K Street, Suite 1200
Washington, D.C. 20006
Telephone: 202-775-0725

ASHBY & GEDDES
Steven J. Balick (I.D. #2114)
John G. Day (I.D. #2403)
Tiffany Geyer Lydon (I.D. #3950)
222 Delaware Avenue, 17th Floor
P.O. Box 1150
Wilmington, Delaware 19899
Telephone: 302-654-1888
sbalick@ashby-geddes.com
jday@ashby-geddes.com
tlydon@ashby-geddes.com

Attorneys for Plaintiff L.P. Matthews, L.L.C.

Dated: October 25, 2006

174183.1

Plaintiff, LP Matthews, LLC ("LP Matthews") respectfully submits notarized affidavits by the named inventors of U.S. Patent No. 5,063,062 ("the '062 patent"), Douglas H. Greenspan and Philip Low, and a notarized affidavit by an assignee (and subsequent assignor) of the '062 patent, William J. Ingram, that address the concerns raised by this Court at the hearing on September 21, 2006. Attached as Exhibit 1 hereto is the Affidavit of Douglas H. Greenspan in Opposition to the Limited Defendants' Motion for Summary Judgment for Lack of Standing ("Greenspan Aff."). Attached as Exhibit 2 hereto is the Affidavit of William J. Ingram in Opposition to the Limited Defendants' Motion for Summary Judgment for Lack of Standing ("Ingram Aff."). Attached as Exhibit 3 hereto is the Affidavit of Philip Low in Opposition to the Limited Defendants' Motion for Summary Judgment for Lack of Standing ("Low Aff.").

As stated in the attached affidavits, each of the assignors affirms that the '062 patent is owned by plaintiff, LP Matthews. (Ex. 1, Greenspan Aff., ¶ 12; Ex. 2, Ingram Aff., ¶ 11).¹ Furthermore, each of the assignors affirms that he is bound by the outcome of this litigation (Ex. 1, Greenspan Aff., ¶ 14; Ex. 2, Ingram Aff., ¶ 13, Ex. 3, Low Aff., ¶ 7). Finally, each of the assignors affirms that he cannot and will not initiate any other litigation seeking to enforce any claims of the '062 patent against any of the defendants in this litigation (Ex. 1, Greenspan Aff., ¶ 15; Ex. 2, Ingram Aff., ¶ 14, Ex. 3, Low Aff., ¶ 8).

LP Matthews respectfully submits that the attached affidavits state in explicit terms that there is no recourse and that the assignors will not bring suit, addressing and resolving the concerns identified by this Court at the hearing on September 21, 2006.

¹ Mr. Low affirms that he assigned his rights in the '062 patent to Messrs. Greenspan and Ingram (Ex. 3, Low Aff., ¶ 3), who subsequently assigned all their rights in the '062 patent to plaintiff, LP Matthews.

LP Matthews accordingly requests that defendants' motion be denied for the reasons set forth in LP Matthews' previously submitted opposition to the Limited defendants' Motion for Summary Judgment for Lack of Standing and in view of the attached affidavits.

ASHBY & GEDDES

/s/ John G. Day

Steven J. Balick (I.D. #2114)
John G. Day (I.D. #2403)
Tiffany Geyer Lydon (I.D. #3950)
222 Delaware Avenue, 17th Floor
P.O. Box 1150
Wilmington, Delaware 19899
Telephone: 302-654-1888
sbalick@ashby-geddes.com
jday@ashby-geddes.com
tlydon@ashby-geddes.com

Attorneys for Plaintiff L.P. Matthews, L.L.C.

Of Counsel:

Ronald J. Schutz
Robins, Kaplan, Miller & Ciresi L.L.P.
2800 LaSalle Plaza
800 LaSalle Avenue
Minneapolis, MN 55402-2015
Office: 800-553-9910

Robert A. Auchter
David P. Swenson
T. Monique Jones
Robins, Kaplan, Miller & Ciresi L.L.P.
1801 K Street, Suite 1200
Washington, D.C. 20006
Telephone: 202-775-0725

Dated: October 13, 2006
174183.1

EXHIBIT 1

REDACTED

EXHIBIT 2

REDACTED

EXHIBIT 3

REDACTED

CERTIFICATE OF SERVICE

I hereby certify that on the 25th of October, 2006, the attached **REDACTED PUBLIC VERSION OF LP MATTHEWS' SUPPLEMENTAL SUBMISSION IN OPPOSITION TO THE LIMITED DEFENDANTS' MOTION FOR SUMMARY JUDGMENT FOR LACK OF STANDING** was served upon the below-named counsel of record at the address and in the manner indicated:

Richard L. Horwitz, Esquire
Potter Anderson & Corroon, LLP
Hercules Plaza, 6th Floor
1313 North Market Street
Wilmington, DE 19801

HAND DELIVERY

Arthur I. Neustadt, Esquire
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

VIA FEDERAL EXPRESS

Francis G.X. Pileggi, Esquire
Fox Rothschild LLP
Suite 1300
919 North Market Street
Wilmington, DE 19801

HAND DELIVERY

John Ward, Esquire
Ward & Olivo
708 Third Avenue
New York, NY 10017

VIA FEDERAL EXPRESS

/s/ John G. Day

John G. Day